

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOINT STOCK COMPANY CHANNEL ONE :  
RUSSIA WORLDWIDE, et al., :  
 : 16-CV-01318 (GBD)  
Plaintiffs, :  
v. : September 8, 2016  
 :  
INFOMIR LLC, et al., : 500 Pearl Street  
 : New York, New York  
Defendants, :  
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE  
BEFORE THE HONORABLE BARBARA C. MOSES  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 THE COURT: This is Judge Moses.

2 MR. DOWD: Good afternoon, Judge Moses. This is Sam  
3 Blaustein with my colleague Hardin Rowley. We are colleagues  
4 for the plaintiff in the action.

5 MR. FRAADE: And this is Alan Fraade, attorney for  
6 the defendant Panorama.

7 THE COURT: Okay. I'm going to ask -- do we have  
8 anyone else on the line?

9 MR. BLAUSTEIN: As far as I know, those were the only  
10 participants.

11 THE COURT: All right. So for the plaintiff, Mr.  
12 Blaustein and excuse me, give me your colleague's name again.

13 MR. ROWLEY: Hardin Rowley, R-O-W-L-E-Y.

14 THE COURT: And for defendant Panorama, Mr. Fraade,  
15 correct?

16 MR. FRAADE: Right.

17 THE COURT: All right. Try to keep your voices up.  
18 We do not have a court reporter since this is an informal  
19 status conference, or some kind of a conference anyway, in  
20 chambers. But we are trying to make an audio recording, so  
21 keep your voices up if you can.

22 The reason I asked you to call in this afternoon is  
23 that I received the September 5<sup>th</sup> letter from plaintiff's  
24 counsel seeking a two week extension on the briefing schedule  
25 for the Rule 12(b)(2) motion, but since the underlying problem

1 seems to be a disagreement regarding discovery as to which I  
2 understand you met and conferred yesterday. I thought it might  
3 be more efficient to get everyone on the phone and see whether  
4 that dispute has been resolved and what I can do to help you  
5 resolve it because I don't want you coming back to me every  
6 week saying we're still quarreling about discovery. So let me  
7 get a report perhaps from plaintiff because you wrote me the  
8 letter as to whether you were able to resolve the dispute  
9 yesterday and if not, what the issues are.

10 MR. BLAUSTEIN: Very good, Your Honor. Again, this  
11 is Sam Blaustein for plaintiffs.

12 As Your Honor may recall, an order was issued on July  
13 22<sup>nd</sup> requiring the production of jurisdictional discovery in  
14 advance of the filing of Panorama's 12(b)(2) motion asserting a  
15 lack of personal jurisdiction over it.

16 THE COURT: Well, what it actually required was that  
17 you served that discovery by July 29<sup>th</sup> and that Panorama respond  
18 by August 19<sup>th</sup> before your opposition papers were due.

19 MR. BLAUSTEIN: So let me address those points. We  
20 timely served discovery requests and Panorama timely served its  
21 response on August 19<sup>th</sup>, so there's no issue with respect to the  
22 timeliness of the response. The issue has to do more with the  
23 quality and the quantity of the response.

24 THE COURT: Okay.

25 MR. BLAUSTEIN: Specifically, we only received one

1 document from Panorama, that being its certificate of  
2 incorporation from the British authorities. There were no  
3 other documents produced. Because we are faced with the  
4 predicament of this being a 12(b)(2) motion in connection with  
5 jurisdictional discovery, as plaintiffs we will bear the burden  
6 of satisfying to the Court that jurisdiction exists under the  
7 rules of the foreign state under CPLR 301 or 302.

8 THE COURT: Okay.

9 MR. BLAUSTEIN: We believe that the evidence that we  
10 have is sufficient to start that showing. However, we do not  
11 want to be put in a predicament where we ask for jurisdictional  
12 discovery and have received only one page and have to move  
13 forward with that reality.

14 THE COURT: Now, I also gave you permission, if I  
15 recall correctly, to serve [inaudible] subpoena on an internet  
16 server.

17 MR. BLAUSTEIN: That is correct, Your Honor, and that  
18 subpoena has been served and we have been contacted by that  
19 entity's processing service. They have represented to me that  
20 we were to receive a response approximately two weeks ago. We  
21 have not yet received that response and I have alerted them to  
22 the possibility that we will need to make a motion to the  
23 court.

24 THE COURT: All right. Have they indicated that they  
25 are going to resist or is this just a delay as far as you can

1 tell?

2 MR. BLAUSTEIN: It is a delay. They represented to  
3 me in writing that they would be providing us documents by  
4 approximately the end of August.

5 THE COURT: They missed that deadline.

6 MR. BLAUSTEIN: It was an internal deadline. I'm not  
7 sure how enforceable it is but that's what they've represented.

8 THE COURT: All right. Mr. Fraade, anything you need  
9 to augment or jump in on so far?

10 MR. FRAADE: No. Just in terms of the lack of  
11 documents, I did request my client provide me with any  
12 documents they have. They came back with the one document.  
13 Then when I questioned it, they said anything they did, whether  
14 it was registering for a phone number -- or the website was all  
15 done online and they don't have any documents for that, and I  
16 took them at face value on that. I don't think I need -- you  
17 know, that's all they have of those documents since I provided  
18 the responses in the response to discovery which was provided  
19 to plaintiffs.

20 THE COURT: All right. So you met and conferred  
21 yesterday with defendant's counsel and did you resolve  
22 anything?

23 MR. BLAUSTEIN: Your Honor, this is Samuel Blaustein  
24 again. I think that the only thing that we resolved is that  
25 Mr. Fraade would go back to his clients and make the request.

1           THE COURT: All right. So now you need to get a  
2 little more specific with me about what else you asked for that  
3 Panorama has not produced.

4           MR. BLAUSTEIN: I think I can sum that up relatively  
5 quickly. As Your Honor may recall, we did an investigation  
6 concerning Panorama's website, and the primary thrust of this  
7 case is that Panorama, and indeed the other defendants,  
8 complete their nefarious actions through the internet. We have  
9 --

10          THE COURT: Now, the website that you're talking  
11 about is the -- wait a minute, don't tell me; www.panamatv? Is  
12 that it?

13          MR. BLAUSTEIN: Mypanorama.tv.

14          THE COURT: Mypanorama.tv. All right. Mr. Fraade,  
15 is that your company's website?

16          MR. FRAADE: My client has advised me that they do  
17 own that website.

18          THE COURT: All right. So that in the --

19          MR. BLAUSTEIN: That is in the interrogatories.

20          THE COURT: Pardon?

21          MR. BLAUSTEIN: The defendant Panorama has admitted  
22 in its response to interrogatories that it owns the website.

23          THE COURT: Okay. Well, that's helpful because I was  
24 a little unclear when we last got together whether even that  
25 was being contested. So they own the website. What else you

1 need to know about the website?

2 MR. BLAUSTEIN: Well, what we would like to know is  
3 who registered it?

4 THE COURT: What do you mean who registered it? They  
5 said they own it. Well, they said that they owned it but the  
6 website was registered through a United States entity and we  
7 believe that it is being hosted by another company that is here  
8 in the United States. Whether the transaction, whether the  
9 registration and the current operation of the website is  
10 currently undertaken, or was undertaken in the United States,  
11 is a question that goes to the issue of jurisdiction.

12 THE COURT: All right. So are they not telling you  
13 what companies they use to register it or to host it, or are  
14 they simply telling you that they can't produce paper documents  
15 because it was done online? Maybe I should ask Mr. --

16 MR. BLAUSTEIN: I believe it is a little bit of both,  
17 Your Honor. The now named defendants, the LP, admits that they  
18 own the website but nothing more. They claim that it was  
19 registered online. We think that there should be some record  
20 of that registration.

21 THE COURT: Yes, there should be. Do they claim they  
22 don't know who they registered it through?

23 MR. FRAADE: That question wasn't asked. The  
24 question was do you have any documents I believe with respect  
25 to the website and the answer was I guess no, that it was done

1 online.

2 THE COURT: Okay. Done online with what entity? I'm  
3 trying to cut through --

4 MR. FRAADE: I don't think that question was raised,  
5 so it was --

6 THE COURT: Well, I'm raising it, Mr. Fraade. I'm  
7 trying to cut through form here. If it could have been an  
8 interrogatory and not a document request, then maybe it needs  
9 to get re-served on an expedited basis as an interrogatory that  
10 you need to answer. I assume your client knows who registered  
11 it, right?

12 MR. FRAADE: I would think yes, and I believe that  
13 the entity that they've requested the information from, which  
14 is the first I've heard now that they haven't responded, would  
15 be able to verify that information.

16 THE COURT: So your view, Mr. Fraade, is that that  
17 information should come from domains by proxy?

18 MR. FRAADE: Right. They would have that  
19 information. If they didn't provide it --

20 THE COURT: Yes, but --

21 MR. FRAADE: -- then I'll go back to my client to  
22 confirm.

23 THE COURT: No, no, no. It doesn't work that way.  
24 You represent the party. The party in the first instance has  
25 the obligation to provide relevant information as a backup, or



1 sometimes as necessary as a workaround. The plaintiff is  
2 entitled to serve a Rule 45 subpoena, but that is never the  
3 discovery measure of first resort if the same information is in  
4 the possession of the party. So how are you going to get that  
5 information to plaintiffs counsel?

6 MR. FRAADE: I can contact my client and ask him to  
7 confirm that that is the entity that they utilized to obtain  
8 the website.

9 THE COURT: Okay. And then the other question is who  
10 hosts it. Is that correct, Mr. Blaustein?

11 MR. BLAUSTEIN: Yes. We would like -- we believe  
12 that we know the answer to that. We believe it's an entity in  
13 Washington State but we would like confirmation of that.

14 THE COURT: All right. So are there any other  
15 outstanding discovery issues?

16 MR. BLAUSTEIN: Yes, Your Honor. I think that the  
17 issue of the ownership of the website is one issue that needs  
18 to be addressed but I think that the most important question  
19 that we asked was our interrogatory request number 10, and that  
20 request sought documents that mention, concern, and relate to  
21 any agreement or contract made between Panorama and Panorama as  
22 defined as the LP in the definitions, and its authorized  
23 representatives in the United States.

24 Now, as Your Honor recalls, at the last conference we  
25 made reference to Exhibit 13 to the complaint which is a

1 translation of the website mypanorama.tv. That --

2 THE COURT: Is that the one that gives the address in  
3 Brooklyn?

4 MR. BLAUSTEIN: That is correct, Your Honor. Now, we  
5 have this documentary evidence that we've taken from the  
6 website but now in their responsive interrogatories, Panorama  
7 the LP admits to owning that indicates that there is this  
8 address in Brooklyn.

9 THE COURT: Got it. So Panorama owns the website.  
10 The website directs US customers to an address, and I believe a  
11 couple of individual names if I'm not mistaken in Brooklyn,  
12 correct?

13 MR. BLAUSTEIN: There's a name for someone named  
14 Slavo but I believe Slavo may be located in Los Angeles.

15 THE COURT: Oh, I'm sorry. Is there a local phone  
16 number given on the website or just the 800 number?

17 MR. BLAUSTEIN: There is a local phone number given  
18 on the website as well.

19 THE COURT: All right. It's a 718?

20 MR. BLAUSTEIN: Yes.

21 THE COURT: Okay. So what questions have you asked  
22 or what documents have you requested regarding the 718 number?  
23 I assume you want to know who owns that number, or to be more  
24 precise, whom it is at the time.

25 MR. BLAUSTEIN: Well, Your Honor, the website

1 mypanorama.tv also includes a 1-800 number.

2 THE COURT: Right.

3 MR. BLAUSTEIN: And we are convinced beyond a  
4 reasonable doubt that the 718 number has been registered in the  
5 United States.

6 THE COURT: Well, it's a Brooklyn area code. I don't  
7 think, you know, the Moscow telephone company gives you a 718  
8 area code.

9 MR. BLAUSTEIN: That is correct, Your Honor. And  
10 that leads me to my next point which is the interrogatory and  
11 the corresponding discovery request that we made asks about the  
12 1-800 number on the website, that number being 1-800-556-5617.  
13 And the reason that we asked about the 1-800 number is there's  
14 something called the unified numbering system and those toll  
15 free numbers that are assigned a 1-800 beginnings are only  
16 available in the United States, Canada, and a select few other  
17 North American countries.

18 THE COURT: And you want to know if this one is a US  
19 number.

20 MR. BLAUSTEIN: That is what we would like to know,  
21 Your Honor. We are of the belief, based upon our research,  
22 that a toll free number that would be directed to the Russian  
23 Federation would not start with 1-800 but would use the Russian  
24 Federation's extension which is 8-800.

25 THE COURT: I would think so. But I skipped ahead.

1 You were telling me about your interrogatory 10 which has to do  
2 with -- well first you said it was an interrogatory but then  
3 you said it asked for the production of documents that  
4 constituted agreements or contracts with representatives in the  
5 United States.

6 MR. BLAUSTEIN: Yes, that was a document request.

7 THE COURT: Document request number 10. So you  
8 wanted pieces of paper that constitute some sort of agreement  
9 or contract with authorized representatives in the United  
10 States. And Mr. Fraade, what was your response, your client's  
11 response to that one?

12 MR. FRAADE: No such documents exist --

13 THE COURT: And is that because when your clients --

14 MR. FRAADE: -- in the possession or custody of  
15 Panorama.

16 THE COURT: And that's because in your client's view  
17 those folks manning the office in Brooklyn don't belong to your  
18 client?

19 MR. FRAADE: Correct.

20 THE COURT: All right. Do you have the names of the  
21 individuals in Brooklyn, Mr. Blaustein? You gave me the name  
22 of somebody who's not in Brooklyn.

23 MR. BLAUSTEIN: Yes. Our research has given us the  
24 names. Bear with me for one moment. I believe there's an Alex  
25 Yanovar [Ph.]. And we have asked questions about these

1 individuals. The responses we have received is that there is  
2 no formal affiliation.

3 THE COURT: No formal affiliation.

4 MR. BLAUSTEIN: No affiliation with those people.

5 THE COURT: All right. Well, have you, for example,  
6 asked for emails with Mr. Yanovar?

7 MR. BLAUSTEIN: We have not asked for emails.

8 THE COURT: Have you asked for emails of anybody  
9 doing business in Brooklyn?

10 MR. BLAUSTEIN: Well, the reason we didn't ask for  
11 emails specifically is that we used the southern district's  
12 standard definition of documents which encompasses emails.

13 THE COURT: Okay. So you did ask for emails?

14 MR. BLAUSTEIN: Yes. I guess the answer is yes just  
15 by and through the southern district's definition.

16 THE COURT: Okay. And Mr. Fraade, your position as I  
17 understand it correctly, and I'm going to maybe oversimplify it  
18 a bit here, is we don't know who those folks are in Brooklyn,  
19 we didn't rent that office, they don't talk to us, they don't  
20 speak for us, we don't know who they are.

21 MR. FRAADE: There was one individual there who, I  
22 don't remember his last name, Asaf [Ph.], who apparently has --  
23 and I think it did come up in prior documents, has purchased  
24 product as anyone else has the right to purchase product on the  
25 website and has resold it. And plaintiffs are aware of his

1 name and who -- I think his last name, I don't have it in front  
2 of me. So clearly they -- I believe my client knows that that  
3 person exists. I believe he is listed as one of two dealers,  
4 the two people who have been mentioned I think as a list of  
5 dealers, but there's no formal dealership or representative  
6 agreement or distribution agreement. I believe these people  
7 asked to be listed on the website to facilitate I guess their  
8 ability to sell in the United States and not for my client to  
9 sell in the United States.

10 THE COURT: All right. Let me see if I got this  
11 straight, Mr. Fraade. Your client has nothing to do with these  
12 folks except that they know that it resells your client's  
13 products and it allows them in effect to put their address and  
14 their contact information on your website for that purpose?

15 MR. FRAADE: That's correct.

16 THE COURT: Now, have the document requests  
17 previously served been sufficient to cover communications  
18 including email communications to or from these folks or  
19 concerning them?

20 MR. BLAUSTEIN: Your Honor, we have in our requests  
21 of the term documents --

22 THE COURT: I understand. Documents means emails.  
23 Have you asked roughly enough to make discoverable, for  
24 example, an email from one of the principals of the company in  
25 Russia to Mr. Yanovar or Mr. Asaf or concerning them and their

1 activities in Brooklyn?

2 MR. BLAUSTEIN: Yes, Your Honor. Document request  
3 numbers 2 and 3 specifically asked for documents that mention,  
4 concern, relate to, and/or pertain to any agreements or  
5 contract made between Panorama LP and both Mr. Yanovar and  
6 Slova who's the individual referenced on the website.

7 THE COURT: I see. So Mr. Fraade, you're taking the  
8 position that you don't have to produce anything because you  
9 don't have a contract with these guys?

10 MR. FRAADE: Well, there's no agreement responding to  
11 those.

12 THE COURT: Well there must've been some agreement if  
13 you agreed to put the Brooklyn address on your website. That's  
14 an agreement. It doesn't have to be gold plated. Do you have  
15 any emails that discuss these matters?

16 MR. FRAADE: I could obviously raise that with my  
17 client.

18 THE COURT: I think you'd better.

19 MR. FRAADE: My client didn't have anything in  
20 response to what was requested.

21 THE COURT: Let me be clear. An agreement does not  
22 have to be a written signed contract. An agreement can be an  
23 informal oral agreement. If you have documents, even if they  
24 don't say contract at the top, that reflect the existence of  
25 whatever agreement is in place that allows those fellows to do

1 whatever it is in Brooklyn, you need to produce those.

2 MR. FRAADE: I will clarify that with my client and  
3 make the request.

4 THE COURT: And if I continue to hear, because you  
5 have to admit, Mr. Fraade, the version of the facts here, not  
6 the most plausible I've ever heard. So if this goes on and  
7 there continues to be nothing, you have no explanation for why  
8 that address and that phone number and those individuals  
9 operating out of Brooklyn are on your website and what they're  
10 doing there, then I'm probably going to have to require one of  
11 your principals to sit for depositions. And I think you'd  
12 probably rather avoid that.

13 MR. FRAADE: All right. I will clarify with my  
14 client and make sure they provide the proper information.

15 THE COURT: Okay. Any other categories that we need  
16 to get? And this would include also incidentally going back to  
17 Mr. Blaustein's original report, even if your client did all of  
18 this registration and web hosting arrangements, made all of  
19 those arrangements online, it will have some electronic  
20 documents reflecting what those arrangements were and when and  
21 by whom they were made. They may be in the form of emails,  
22 they may be in the form of data which was retrievable from your  
23 client's account electronically at the web hosting service or  
24 the company that it used to register the website. Keep in mind  
25 that electronic data counts as documents under the --



1 MR. FRAADE: I understand, Your Honor.

2 THE COURT: So you've got to find that stuff, emails,  
3 electronic data, whatever it is, and you've got to produce it.  
4 And if you keep coming back and saying we don't know what those  
5 guys are doing in Brooklyn and we don't have anything, the next  
6 request I get I'm sure is going to be for a deeper and more  
7 painful level of discovery. Is there anything else, Mr.  
8 Blaustein?

9 MR. BLAUSTEIN: Your Honor, I think that you've  
10 expressed what is the most critical aspect of these things at  
11 the moment. I would only like to advise the Court that there  
12 is a slim chance that we will have to seek some type of relief  
13 with respect to domains by proxy. I'm hoping to avoid that,  
14 however.

15 THE COURT: The domains by proxy [inaudible]?

16 MR. BLAUSTEIN: Yes. They're based in Arizona. Or  
17 at least the entity that's responding to the subpoena is.

18 THE COURT: Okay. Well, my experience is, generally  
19 speaking, companies operating lawfully in the United States do  
20 respond to Rule 45 subpoenas.

21 MR. FRAADE: Yes.

22 THE COURT: They may not respond as quickly as you  
23 and I might like them to, but they do respond. So here's what  
24 I'm going to do I think. I am going to extend for three weeks,  
25 not two, I'm going to extend for three weeks the briefing

1 schedule. And that is going to make the opposition brief due  
2 on the 30<sup>th</sup> I think. Is that right?

3 MR. BLAUSTEIN: That's correct by my -- well, it  
4 would -- yes. Yes, Your Honor.

5 THE COURT: All right. And that is going to make the  
6 reply paper a week later. Hold on. Now I have to look at my  
7 calendar if I can find my calendar.

8 [Pause in proceedings.]

9 THE COURT: All right. So it's September 30<sup>th</sup> which  
10 is a Friday. The opposition, and that makes it October the 7<sup>th</sup>,  
11 the following Friday for reply.

12 In the meantime, the defendant will once again search  
13 its documents including the electronic documents that we  
14 discovered for items which are responsive to the plaintiff's  
15 pending requests keeping in mind the broad definition of  
16 documents and the generous definition of agreement that we  
17 discussed during the course of this call. And when are we  
18 going to have a response from Panorama next, Mr. Fraade?

19 MR. FRAADE: I'm thinking, Your Honor. There's a  
20 time difference and it's always a little complicated to  
21 communicate with my client but I'll get an email out to them by  
22 if not later today, by tomorrow. I guess give me a week from  
23 Monday because I think I have to go through the computers. My  
24 client seems to travel quite a bit to Russia and Europe so I  
25 assume he has to be in his office at his computer to be able to

1 do the search. So assuming that he will be available -- if  
2 not, I will get back to plaintiff's counsel to tell him if  
3 there's any delay. But if you can give me until a week from  
4 Monday --

5 THE COURT: That would be the 19<sup>th</sup>, correct?

6 MR. FRAADE: That's correct.

7 THE COURT: All right. So to the extent that  
8 responsive documents are found now that we've had this chat,  
9 you'll produce them by the 19<sup>th</sup>.

10 MR. FRAADE: Yes.

11 THE COURT: Now, should I send a follow-up conference  
12 date so that the parties can let me know if there's still a  
13 problem or there's not still a problem after the 19<sup>th</sup>?

14 MR. BLAUSTEIN: Plaintiffs have no objection to  
15 scheduling another conference if the Court thinks it's  
16 necessary.

17 THE COURT: Well, let's plan for success. So I will  
18 not schedule that conference now. But if there is a problem, I  
19 want to hear about it by the 20<sup>th</sup>, Mr. Blaustein. Okay?

20 MR. FRAADE: Okay.

21 MR. BLAUSTEIN: Absolutely, Your Honor.

22 THE COURT: All right. So write me a letter by the  
23 20<sup>th</sup> if you think there is a need for further court intervention  
24 and outline in the letter what you think that need is. I can  
25 see scenarios where you might want to write me a letter and not

1 need court intervention yet. For example, if Mr. Fraade calls  
2 you up and says we have documents for you but we can't produce  
3 them until the 21<sup>st</sup>, well you can just tell me that. But tell  
4 me something by the 20<sup>th</sup>. Okay?

5 MR. FRAADE: We will certainly provide you an update  
6 by the 20<sup>th</sup>, Your Honor.

7 THE COURT: All right. Excellent. Anything else  
8 that we need to do on today's conference?

9 MR. BLAUSTEIN: Nothing from plaintiff's perspective.

10 THE COURT: Mr. Fraade?

11 MR. FRAADE: Not from our end.

12 THE COURT: All right. And you're clear on what you  
13 need to do, right?

14 MR. FRAADE: Yes, I am.

15 THE COURT: Good. Thank you very much, gentlemen.

16 MR. FRAADE: Everyone have a good day.

17 MR. BLAUSTEIN: Thank you.

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1 I certify that the foregoing is a court transcript from an  
2 electronic sound recording of the proceedings in the above-  
3 entitled matter.

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6 Mary Greco

7 Dated: September 14, 2016  
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